

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

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BWS PROPERTIES, LLC,                    )  
  )  
                          Plaintiff,    ) No. 1:24-cv-00029  
  )  
vs.                                        ) Judge Christopher H. Steger  
  )  
AIRGAS USA, LLC,                        ) Non-Jury  
  )  
                          Defendant.    )

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**DEPOSITION OF DAWN VAN DYKE**

**April 23, 2025**

1 A Yes.

2 Q And can you describe those for me, please.

3 A I -- the square footage, I think, is one thing  
4 we went back and forth on; the term, as far as how long  
5 we were going to renew; and the rent amount.

6 Q And, when you say "square footage," can you tell  
7 me what you mean by that.

8 A The square footage in the original lease was  
9 twenty-one thousand and something; and then it switched,  
10 with the new lease, to forty-some thousand.

11 Q Were there -- was there anyone else, other than  
12 yourself and Ms. Nevans, responsible for negotiating the  
13 terms of the lease?

14 A Well, final approval to do anything was through  
15 the CFO.

16 Q And remind me of the CFO's name.

17 A Colin Donato.

18 Q Did anyone else have any input along the way  
19 with negotiations?

20 A No, not that I am -- not that I'm aware of.

21 Q And that's on Airgas's side, not BWS. Was there  
22 anyone else at Airgas that you spoke with or strategized  
23 with? Again, not talking about outside counsel or  
24 anything like that.

25 A Just my CFO, you know, and the real-estate

1 team.

2 Q And who's on the real-estate team?

3 A Well, by "real-estate team," I mean myself. I  
4 would talk to Colin. And then, of course, we would, you  
5 know, talk to the president of the division. He would be  
6 aware of what was going on. The area vice-president  
7 would have input as well.

8 Q Who was the area VP at the time?

9 A I believe, at the time, it was Clayton Merrick.

10 Q And, then, who was the president, at the time,  
11 of that division?

12 A John Sheehan.

13 Q And I hate to ask this, but are you able to  
14 spell either of their last names for our lovely court  
15 reporter?

16 A Sure. John Sheehan, S-H-E-E-H-A-N; and Clayton  
17 Merrick is M-E-R-R-I-C-K, I believe.

18 Q Closer than I can get it, so thank you.

19 Okay. And you mentioned negotiations about the  
20 term of the lease. Can you tell me about those  
21 discussions.

22 A I believe, initially, it was -- we were talking  
23 about a five-year term; but then the rent was going up so  
24 much that we asked if we could get a six-month lease to  
25 figure out what we were going to do, and then they

1           A           It varies. I'm not a part of that department,  
2           so I'm not completely sure.

3           Q           Similar to having a favorite secretary, I wasn't  
4           sure if you had a favorite accounts-payable person that  
5           would take care of things for you.

6           A           No.

7           Q           My secretary's my favorite, so I just have to  
8           ask.

9                       Does Airgas owe any outstanding amounts at  
10          present for reimburse of property taxes and insurance for  
11          the property under the 2022 to 2023 lease?

12          A           I believe for the five months in 2023.

13          Q           Do you know why that has currently not been  
14          paid?

15          A           They never received -- or I haven't received  
16          proof of payment.

17          Q           If you received proof of payment today, what  
18          would be your next step?

19          A           I would submit it to legal and ask them how to  
20          handle it.

21          Q           And, by "proof of payment," what exactly were  
22          you -- are you meaning by "proof of payment"?

23          A           A check where it was paid.

24          Q           I'm going to show you what we're going to mark  
25          as Exhibit 9.

1       counsel?

2       A           David Martineau.

3       Q           M-A-R-T-I-N-E-A-U?

4       A           That's correct.

5       Q           Is that the correct spelling?

6       A           Yes.

7       Q           And, just reading through the first sentence of  
8       your email, the one you sent in response, if you wouldn't  
9       mind following along, you said: "Portions of your  
10      description of the items to which you claim a right to  
11      reimbursement were not sufficiently clear for us to make  
12      any kind of determination."

13                 Was this something that you were instructed to  
14      draft, or was this something that you were wanting just  
15      additional information on?

16                 MR. ROBISON: And let me maybe ask for some  
17      clarification. Is that a question about instruction  
18      from legal counsel? Because I probably would make the  
19      general recommendation to the deponent not to testify  
20      about what she told legal counsel or what legal counsel  
21      told her.

22                 But, outside of that, if you can answer the  
23      question, please go ahead.

24      A           I just think things weren't -- weren't clear.

25      Q           Was there some specific information or

## C E R T I F I C A T E

STATE OF TENNESSEE

COUNTY OF HAMILTON

I, Robin Lee Fouraker, Court Reporter and Notary Public, the officer before whom the foregoing deposition was taken, do hereby certify that the witness whose testimony appears in the foregoing deposition was duly sworn by me; that the testimony of said witness was taken by me in machine shorthand and thereafter reduced to computerized transcript; that said deposition is a true record of testimony given by said witness; that I am neither counsel for, related to nor employed by any of the parties to the action in which this deposition was taken and further that I am not a relative or employee of any attorney or counsel employed by that parties hereto nor financially or otherwise interested in the outcome of the action; that said deposition has in no manner been changed or altered since same was given by said witness but that the same has remained in my possession up to the time of delivery.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of May 2025.



A handwritten signature in blue ink that reads "Rob Lee Fouraker".

Robin Lee Fouraker, LCR, RDR, CRR

Tennessee LCR Number: 021

My commission expires: October 27, 2026.